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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 DUSTIN A. LOUIE,

8 Plaintiff,

9 v.

10 C/O FOO and SGT BLEVINS,

11 Defendants.

NO: 2:16-CV-0336-TOR

ORDER ADOPTING REPORT AND
RECOMMENDATION, DISMISSING
FIRST AMENDED COMPLAINT IN
PART AND DIRECTING SERVICE
OF REMAINING CLAIMS

*****ACTION REQUIRED*****

12
13 BEFORE THE COURT is Magistrate Judge Rodgers' Report and
14 Recommendation to dismiss Plaintiff's First Amended Complaint in part and to
15 terminate Defendant Spokane County Detention Services from this action, ECF No.
16 16. Plaintiff, a prisoner at the Washington State Penitentiary, is proceeding *pro se*
17 and *in forma pauperis*; Defendants have not yet been served.

18 There being no objections, **IT IS ORDERED** the Report and
19 Recommendation, ECF No. 16, is **ADOPTED in its entirety**, Plaintiff's claims
20 against Spokane County Detention Services are **DISMISSED** and the Clerk of Court

ORDER ADOPTING REPORT AND RECOMMENDATION, DISMISSING
FIRST AMENDED COMPLAINT IN PART AND DIRECTING SERVICE OF
REMAINING CLAIMS ~ 1

1 shall **TERMINATE** Defendant Spokane County Detention Services from the
2 docket.

3 Liberally construing the remainder of the claims in the First Amended
4 Complaint in the light most favorable to Plaintiff, the Court finds his allegations
5 regarding the excessive use of force are sufficient to require a response from
6 Defendants Foo and Blevins. Therefore,

7 **IT IS ORDERED:**

8 1. The United States Marshal, in compliance with Fed. R. Civ. P. 4(c)(3) and
9 (d), shall send, by First Class Mail, **copies** of the Summons(es), the First Amended
10 Complaint, ECF No. 15, and this Order, upon the above-named Defendants, together
11 with a Notice of Lawsuit and Request for Waiver of Service of Summons, two copies
12 of the Waiver of Service of Summons and a return envelope, postage prepaid,
13 addressed to the sender. The costs of mailing shall be advanced by the United States.

14 2. **The United States Marshal's office shall retain the original**
15 **Summons(es) in the event one or more of the Defendants refuses to waive**
16 **service or does not waive service in a timely manner, thereby necessitating**
17 **personal service pursuant to Fed. R. Civ. P. 4(e) and/or 4(j)(2). Defendants**
18 **shall have thirty (30) days after the requests are sent to return the waivers (Fed.**
19 **R. Civ. P. 4(d)(1)(F)) and if they fail to do so within that time, the United States**
20 **Marshal shall effect personal service pursuant to Fed. R. Civ. P. 4(e) and/or**

1 **4(j)(2).** In the absence of good cause, each Defendant who fails to return the Waiver
2 of Service of Summons will be required to pay the expenses of service.

3 3. The District Court Executive shall mail a copy of the First Amended
4 Complaint, ECF No. 15, to the Office of the Spokane County Prosecuting Attorney.

5 4. Defendants shall file an answer or otherwise respond to Plaintiff's claims
6 contained in the First Amended Complaint within sixty (60) days after mailing (if
7 formal service is waived), or forty-five (45) days after service if service is not
8 waived. Failure to so respond may result in entry of a default judgment, pursuant to
9 Local Rule 55.1.

10 5. **The District Court Executive shall set a case management deadline**
11 **sixty (60) days after the date of this Order.**


12 6. Plaintiff shall serve upon Defendants, or if appearance has been entered by
13 counsel, upon their attorney, a copy of every further pleading or other document
14 submitted for consideration by the Court. He shall include, with the original paper
15 to be filed with the District Court Executive, a certificate stating the date a true and
16 correct copy of any document was mailed to the Defendants or to their counsel. This
17 service/certificate requirement will not apply if it becomes apparent that Defendants
18 and/or their Counsel are participants in the Court's CM/ECF system. Plaintiff is also
19 advised that, throughout this action, he must notify the District Court Executive
20 regarding any change of address and phone number (at least a message phone).

1 Failure to do so will result in the dismissal of the action if the Court is unable to
2 contact Plaintiff.

3 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
4 order and forward a copy to Plaintiff and to the United States Marshal's Office.

5 **DATED** June 5, 2017.




THOMAS O. RICE
Chief United States District Judge